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Public Hearing
Proposed Changes to 521 CMR
Cape Cod Community College, Science Lecture Hall C
2240 Iyannough Road, West Barnstable
May 24, 2018 8:30 a.m. – 12:30 p.m.

Salem Public Hearing May 24, 2018

Present Board Members:

- Walter White, Chairperson (WW)
- Jeff Dougan, Massachusetts Office on Disability (DA)
- Harold Rhodes (HR)
- Patricia Mendez, (PM)

Also in Attendance:

- Karen Brann, Program Coordinator/Clerk for the Board (KB)

Board Members not in Attendance:

- Jane Hardin (JH)
 - Ray Glazier (RG)
 - David Johnson (DJ)
 - Dawn Guarriello (DG)
 - David Johnson
 - Andrew Bedar (AB)
- Meeting began approximately 9:15 a.m.

Nancy White – Playground Inspections of New England
Steve Higgins – Independence Associates
Pat Petit – William Starcic Architect
Michael McGuffie – Northeastern Playground
Patti Machado – Barnstable Recreation
Robert Casper – Sailing for All
Paul Logan - Cotuit

The Chair opened the meeting and introduced the Board, CART and ASL.
This is regarding the 521 CMR regulations.

Our regulations are on line, you may have had a chance to review them. This is the sixth hearing in a series of 6, on the Cape just before Memorial Day. We have a sign in sheet if anyone would like to speak. We will

Nancy White - Playground Inspections of New England. I am an inspector and I do consulting. Here to talk about surfacing. I have to be able to give my clients proper information to the regulation changes. Make sure the verbiage in the law is clear. With surfacing you are dealing with a different animal with parks and rec people, they are very passionate. At times the need for specific understanding and long term and regs and law, more than a building inspector would deal with. I am here as an in betweener. People look to me for the info. I want you to education us so we can help you give clarity to others. It helps the community because they talk to each other. Not a matter of everyone is angry, it is not what is being said it is how it is being said. What you want is not wrong it is right, but it is helping me and us share information so everyone is on the same page. Inspectors are supposed to enforce this I don't know how that gets educated. I am here to ask for your help to understand. You have a plethora of things you are doing.....I can be your biggest fan.....I am a third party inspector. I want to give the correct information.

HR – Thank you. If we don't consider any current regulation amendments, as it exist today do you think you have a good under understanding?

NW - The latter.

HR – Helpful to address comments, you don't feel language is clear enough. Write to Tom Hopkins and give the section. Does it mean...or that

NW - This is what I heard from other meetings. Need for disabled child to get to play event.

HR - Write an email and

NW – and ask if this is correct, is this correct. WW - The regulations have not been adopted yet. The current regulations go back to 2006. It just has not moved forward. This is the furthest it has moved in 10 years. There are steps after this. There is a written comment period open until July1.

NW - People are working on their budgets for fiscal year.

WW – I can't speculate when it might be adopted and put into effect. Up until that point you are under the current regulations gave information submitting information on the new regs. I can't speculate when they will be adopted. Playgrounds – accessible route. The current regulations are still in effect.

JD – The accessible route is not changing. What changing is some of the structure requirements to match ADA design requirements. Stable, Firm, slip resistant.

JD - Through this public comment period take a look at the section.

stable, firm, slip resistant surface for the accessible route as well as the use zone that's not changing

WW- Comments on education, your organization can invite AAB to speak to your inspectors.

He could travel to one of your meetings. You could do it now or wait until it is adopted.

NW – I can invited Tom to the 2019 state conference. There are only a few third party inspectors.

Steve Higgins – Independence Associates

Thank you for the opportunity to be hear. I'm the Executive Director of Independent Associates.

Part of my testimony is similar to Mike Kennedy and David Correia. My daughter Jackie worked with Jeff at MOD. I am in support of the changes. Last time changes in 2006. Two sets of regulations makes confusion on how to make accessible. MA has fallen behind because of confusion. Because of the confusion there is potential to think that it is compliant when it isn't because of two regulations. Support to have it in line with federal. My wife has a spinal injury. My hands crushed a few years ago. We witness improvements. Discrimination we face today I am the Executive Director of Independent Associates. One of my fears is always with HRS 620 and hearing about the serial people filing complaints is that you don't look at me as a serial filer. Many of you have seen my name come across on complaints when you conduct hearings and look at work in Boston. Still have a fear of filing access reports. We will file on behalf of anyone wanting to file. It is a real thing in the community. Tax dollars to bring into compliance. AAB jurisdiction over employee work area. Scary we are in 2018, during Patrick administration model for people with disabilities. But we are unable to go to work. When we look at the fact people with disabilities are unlikely to be unemployed. At a rate 2 ½ times everyone else.

5% rule in housing units 50 or over. disabilities. Unfortunately, in this area of the state especially Fall River and New Bedford, Taunton, the Cape many mill buildings being re-purposed into housing and things like that. Those buildings don't need to fall into that 5% code that barrier. Lack of affordable and accessible housing. Housing is health care. If we don't have a place to call home we are less healthy. We are not building housing that is accessible. Barrier, we receive calls for people seeking housing. We have to overcome this barrier. At AAB there is only 1 compliance officer. Proud of the work in Massachusetts. I brag about the process in ma in DC. We can advocate for more money for AAB. The staff is fantastic. Access is a civil right. Access to playgrounds, housing.....need to continue to look at this. Housing is health care. We have to put the two and put them together housing is health care.

Thank you I have written testimony.

JD – Can you send it to Tom too?

The staff is doing a great job. But they don't have it in other states.

WW - Comment on Board being understaffed. I've been on the Board for ten years. When I first came on there was an additional spot for a compliance officer, there was someone in that position for 5 months. It has been vacant for budgetary reasons. I agree with your comments about staff. They do incredible work.

Pat Pettit, William Starcic Architects in Fall River. We do handicapped accessibility upgrades in retail. I want to make it easier for my contractors. I applaud the toilet range 18 inches, vertical grab bar 39 to 41. I have some questions - in restrooms the new code says doors cannot swing in. I object to that. It makes it considerably larger. It is going to be a huge impact especially to retail. 18.6B written on 18.4 does not go along with written. Allows overlap above the door into the fixtures.

Michael McGuffie – Northeastern Playground Surfacing.

I run Northern Playground. We are a MA business in Palmer. Playground our mission is both safety and accessibility in playgrounds. The playground board is a mixture of consumers and manufacturers. There are more consumers than manufactures. We are coming out in support of the community. ASTM committee work. I feel I have prevented many injuries. I cover MA CT, RI. My core area is mass and southern N. E. important safety and accessibility. 1.4 million children in MA are under 17. 80% of those kids have fallen on my surfacing I have been responsible for 30 years. I helped develop the process. Background I'm an engineer, manager,

father, grandfather, concerned citizen, old Vietnam vet, come from the wrong place, wrong time, retired Army Captain In the business because I care. I could retire. We have developed wood fiber over the years and itpersonally I am involved in the local ARC program board of directors and finance board. Production of mulch for 40 years surfacing over 30. Have been told I am the best in the business. I feel threatened. It is miss understood. I wish Tom was her maybe I can make arrangements to go to the office. I have been an active national playground member. It is important that people understand what the national board is. When it came to surfacing I was one of 4 people in US that sat down on the committee. AS14 78 is the bible for playgrounds and everything from pathways, surfaces, etc. We have a certified playground safety inspector course. We set it up to train people in 1487 guidelines. What are the rules what the rules aren't? They call me to sponsor programs. We train people on safety and accessibility.

The subcommittee that handles 1487.....

Performance wise a child has to be able to fall from a 12 foot height without life threatening injuries. Rubber vs wood fiber. Rubber is designed to meet 1 single safety factor. Our safety factor is 3 to 1. If they were to fall on a surface we test continually. The big standards are the 129 which controls raw material, quality. The big one is ASTM1951.

Standards is the 2075 which controls the raw material that the quality of the material that someone would use to try and make a playgrounds safety

As we have been working for 20 years on safety and playgrounds. Surfacing systems. Rational behind this firm and stable, use zone, acknowledged by United States access board 2004. In addition

Quantifiable.... A performance based spec.

Quantifiable measure method. Consistent needs. Establish uniform means to measure

JD - you mentioned US access board.....

MM - ASTM committee and access board they were involved and we work with them and goals. Specification establishes min characteristics. Materials to be used under and around equipment.

1 in 14 slope....we are testing againstthis ramp is acceptable. Critical.

Real core here is 1951 test developed over last 25 years so we have proof. Specs we established for US is used in Canada. Playground safety board quantified what is use zone.

Firm and stable information that is where we developed. Published national guideline on how it is installed. There is a regular procedure for that. On the internet how to install. IPMA is a third party organization. Will be at my plant June 6. This is not a Mickey Mouse operation.

59.4.1

We spent a lot of time and money developing it. I brought in a test. 1 to 14 is acceptable, we run at 82.3% of the effort it would take to go up a ramp, is another 25% more than go across engineered wood fiber.

I will stop in Boston and hand in my information.

59.4.1 and added addressing the 1951 standard.

First sentence – doesn't call out what the nationalnationally we talk about we have to have some kind of responsibility.

I want the entire playground to be accessible. In reality on here what I put here I just added accessible equipment it follows national. I tried to keep what you guys had and put in a few works.

Products – I like to call it performance - you guys already had that.

Suppliers do not all have conformance to 1951. That is why we conformed to ASTM 1951.

Keep in mind we are talking 82% effort to go up a ramp.

In the second section - if you don't have proof what you are putting down there...

Those words in yellow I think is appropriate for 59.4.1. Based on many years of work, it is a lot of work. You spend a lot of time and we spend a lot of time. Every word was carefully put in.

WW - Is that your presentation. I don't want to get into a debate re the actuarial material. The people who will make the decision is the subcommittee. You have done great work. You served in the service.

WW- I appreciate your service.

MM - 25 years to put together a document for specifications. It tries to push us out the door and it is not fair.

WW- 1951 you talk about the effort how does it relate the effort to go across a flat surface.....

The effort assumes firm, stable and slip resistant.

MM - There is wording that specifies, it is a perfect ramp, that is a criteria for the ADA.

WW - How that relate to driving a machine that can weigh 500 600 lbs. If we could develop a standard test with the weight of the machine and the person.

MM - I am surprised you don't know 1951

WW - The subcommittee put in years of work. These 4 sessions have been a tremendous education. I would have not have anticipated playgrounds being a hot topic. Employee spaces, old mills...

WW - The most important thing is the written comments.

MM - The parts we didn't talk about the unfunded mandated parts. The problem is one of my salves folks said if we put in poured in place 28,900. The kids have equipment they are not getting.

The equipment people say MA it is only one state. The kids are suffering. Folks stop doing everything, they don't know what to do. It is a safety surfacing.

59.4.1

I fund the certified inspector course.

Patti Machador Barnstable, Recreation. - The Cape and Islands, I'm all for the ADA and on the Disability Commission for the Town of Barnstable. We have a wonderful Commission that is very active. We have other laws. Everything is unfunded. Playgrounds are a vital part of our community. Play is huge for kids. . We are losing our playgrounds. Poured in place only last 10 years. They will put money into education and not recreation.

Robert Kasper – I live part of the time in North Turo. For over a year I have had collaboration with Tom Hopkins and William Joyce. I represent over a 100 petitioners. Sailing for now. Trying to bring sailing for the disabled and others AG office on disability brought light on what the AAB is, I have lived with disability since 1980 and became more disabled. 10 years ago, before I was at this point I bought a sailboat that coincidentally being used as a Paralympics boat, difficulty accessing waterway in providence town. Because of boat I wound up on same race course with disabled and able people competing against each other. I am friendly with a lot of the people. Because of my conditions I can't travel like I use to. In province town things are

difficult to access the waterway. At one point I had my boat on a mooring, I found it to be impossible. But I learning to sail with disabled people. It became a standard around the world, US sailing is connected to world sailing. They are all connected and have disabled sailing depts.. by installing equipment...allow everyone to participate together. The conversation with Bethany brown AG office said check AAB to gain access to the waterway. I read the regulations. My neighbor is Deb Ryan. I got some coaching. Introduced to TH. Where there is a demand for this....wherever there is a waterway, write regulation I took a stab at it. Met with TH WJ a few months ago. Now I saw your draft and made a red line. It is on the plate. TH has it, I am still trying to find out does it work, do you need me to do anything else. In MA there are places that facilitate this already. Yacht clubs, community sailing centers. Community sailing school. Don't want to get into dangerous situation. It is about education and sporting. We will teach people how to sail right. Put disabled and able bodied together. It is not just racing it is day sailing as well. One of the few sports where you can put able and disabled side by side. I sailed in St Petersburg fl.

Is Tom bringing this information to the subcommittee? I spoke to Tom a week ago I wanted to see if he and will went over the latest submission. I want to know if it works the way we have it.

WW –There is a gap in the regulations that cover 40 feet.

Paul Logan -Thank you for the opportunity to speak throughout the state. 42 years I have been in a wheelchair. I have had discussions with AAB for 30 years. I appreciate the folks I have spoken to. Parking in bars and restaurants, general house keeping with changes. Specific width of parking spaces. I find it frustrating when I park around Cape Cod and Ma I believe spaces are too narrow. I hope AAB realizes that handicapped spaces are narrow. Formula of how many spaces are available. Is anyone noticed that handicapped parking is narrower than regular spots.

WW - as a building official, when we approve a parking lot we get a drawing from an engineer that details the width of the lot.

PL - Take a look and look at the size of non and handicapped parking. I drive a van for 39 years when I park in a regulation handicapped parking it is not enough space. Van accessible spaces are not always available.

Widen space from 8 to 9. Current parking lots will be grandfathered. A regular is 9, 10 or 11. It is 8 because of current law. When I realized it was not part of the change I was disappointed.

If I park in 8 feet wide in my van, correctly in the space and put down my lift I cannot always get out. Change that to 9 feet.

WW- Did you submit your comments?

PL - No this is why I am here today.

WW - Submit them to AAB.

PL – I will do that.

Access aisle 5 to 6, 8 to 9.

WW- I saw a picture on Facebook put down their ramp, less than a foot away from the car.

PL - I am not a quiet person, I am not a radical person. I am getting more frustrated. Another thing systemic on Cape Cod, read the sign. Folks that have a valid plate and work with RMV e way they park are going over the lines. If I see 10 violations plate and placard. Work

with It is a privacy issues

Access Aisles – I will submit prior to June 1.

Van accessible spaces – every spot should be van accessible. When I see a spot it is taken by someone who doesn't need it.

In changes it says 1 in 6 but not less than 1. If I go into a parking with 27 spots, can I assume the parking space is a van accessible space.

JD - 15-25 requires 1. 27 required two, following the formula, 1 in 8 or 1 and 6. The first one must be van accessible. In this one it could be one van accessible, one standard space. Or you could share.

PL - say you are at 25, should it be van accessible. Around the cape it doesn't happen.

PL - Restaurants and bars. In Boston new either renovated or new, if they have a bar is probably going to have an accessible bar. Eataly and other places in Boston. Boston does this the town of Barnstable does not. I will send this in my testimony. Any renovated or new facility must have so much ...accessibility at the bar. I have gone to two bars - Eataly and Legal Seafoods, Braintree and Hingham, I can sit at the bar. AAB should enact that new or renovations should have access to the bar. In addition sushi bars, new in Barnstable makes me angry no accessibility at the bar. The 5% rule, restaurants must provide 5% accessible tables at bars and restaurants. Two things bother me about the %. Raise it to 20%. In Hyannis last Sunday this restaurant probably had ,20% of the seating was accessible because of high top tables. If the restaurant is packed I only have 20% option. I have had to wait longer ...

I am not going back to that bar in Hyannis. I am hoping AAB would change bars need to be accessible and increase the 5% rule. Three times I have had the opportunity to sit at the bar. Legal Seafoods is accessible because it has taken upon themselves. The opportunity to do it and feel regular. This needs to change.

AAB has a reg specific to if you are in a bar if you can't access a bar then the facility has to offer you a different location. It would behoove AAB to see change all across the board. I contacted Barnstable commissioner but in the newly renovated rest there are 77 bar seats none are accessible. Because law states there doesn't need to be accessible bar seats, he cannot force them to make bar seats. I have reached out to owner. This is his 4 restaurant on the cape. This rest has 409 seats. I can't sit at one of the 77 bar seats. AAB should make this change.

Any questions

WW - Submit those comments before July 1, 2018.

Recess

HR motioned to adjourn. PM seconded.

